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No. 661

In the Supreme Court of the United States

OCTOBER TERM, 1958

UNITED STATES OF AMERICA, PETITIONER

v.

ELMER B. WIGGINS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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The Solicitor General, on behalf of the United States, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit, reversing respondent's conviction for refusal to obey a draft board order to report for civilian work in lieu of military service.

OPINION BELOW

The opinion of the Court of Appeals (R. 80–93, Appendix A, *infra*, pp. 18–30) has not yet been reported.

JURISDICTION

The judgment of the Court of Appeals was entered on November 26, 1958 (R. 94, Appendix A, *infra*, p. 31). On December 24, 1958, Mr. Justice Black extended the time for filing a petition for a writ of

certiorari to and including January 24, 1959. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the court below has correctly interpreted the ministerial exemption of the Universal Military Training and Service Act in holding that a prima facie showing that he was a minister under the Act was made by a member of Jehovah's Witnesses who had no position of leadership in the congregation, but occupied a minor post, and who devoted only about 9–10 hours a week to religious work (most of it, studying on his own behalf), while having full-time 40-hour-a-week secular employment.

STATUTES INVOLVED

Universal Military Training and Service Act, 62 Stat. 604, 611, 622, 624:

> Section 6(g) [50 U.S.C. App. 456(g)]:
>
> (g) Regular or duly ordained ministers of religion, as defined in this title, and students preparing for the ministry under the direction of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been preenrolled, shall be exempt from training and service (but not from registration) under this title.
>
> Section 12(a) [50 U.S.C. App. 462(a)]:
>
> Any * * * person * * * who * * * refuses * * * service in the armed forces * * * or who in

any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title, or rules, regulations, or directions made pursuant to this title * * * shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than $10,000, or by both such fine and imprisonment * * *.

Section 16(g) [50 U.S.C. App. 466(g)]:

(g) (1) The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include a person who

irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly, as a vocation, teach and preach the principles of religion and administer the ordinances of public worship as embodied in the creed or principles of his church, sect, or organization.

STATEMENT

The Court of Appeals has reversed respondent's conviction for refusal to obey a draft board order to report for civilian work in lieu of military service (respondent having been classified I-O as a conscientious objector) on the ground that there was no basis in fact for the denial of his claim to complete exemption from military service as a minister.[1]

1. On the issue of respondent's claim to a ministerial exemption, respondent's selective service file, which was introduced in evidence as Government Exhibit 1 (R. 12), shows the following:

Respondent was born on April 2, 1935, and registered with Local Board No. 2, Bay Minette, Ala., on April 6, 1953 (R. 9, 10; F. 3).[2] In his questionnaire (SSS Form No. 100), filed with the local board on June 16, 1953, he stated that he was a minister in Jehovah's Witnesses, and had been ordained on July

[1] Respondent was sentenced to imprisonment for 24 months (R. 57, 64-65).

[2] "F." refers to the numbered pages in respondent's selective service file.

27, 1947 (F. 3, 5). With his questionnaire, respondent sent his own letter describing his work and religious beliefs, and five statements of other persons as to his religious activities (F. 153–159). In his letter, he stated that "every one of Jehovah's Witnesses is a preacher"; that he spent about 50 hours a month in "house to house study and aiding others to go from door to door" (F. 154). Among the accompanying letters testifying to respondent's sincerity was one from the Congregation Servant of his sect.[3] It said in part (F. 158):

> He has been a regular attendance [sic] at the Kingdom Hall (Church) taking an active part in all the meetings, answering questions at the Bible studies, often taking the lead in service meeting discussions from the platform, and giving talks in the ministry school.
>
> Since he became old enough he has taken a regular part in the ministry work going from door to door presenting Bible literature and telling the people of God's way of life.

After respondent was classified I–O in April 1954,[4] respondent was requested to fill out a special report for Class [illegible] registrants (F. 88). In reply to the question in Series I as to the three types of approved civilian work in lieu of military service he would prefer, respondent answered "minister" (F. 89). In Series III he stated that he had worked for the

---

[3] The Congregation Servant has a position roughly equivalent to that of a pastor in orthodox congregations. See *infra*, pp. 11–12, 33, 34, 38–39.

[4] He was classified 1-A by the local board, but 1-O by the Appeal Board after a recommendation to that effect by the Department of Justice (F. 2, 10, 111–113).

Noonan Construction Company as a concrete finisher, and that since December 1953 he had been working for the Chavis Construction Company at Pensacola, Florida, as a crane operator earning $52.53 per week (F. 90).

The local board later received from the respondent a letter dated October 2, 1956, asking for the reopening of his case and classification as a minister, and enclosing a statement by Oscar Skooglund, the Congregation Servant at Robertsdale, Alabama (F. 83, 84). In this statement dated October 1, 1956, Mr. Skooglund listed respondent's activities for the previous 6 months as including 42 hours in door-to-door ministry; 34 hours conducting weekly meetings in Bible and Bible publications; 144 hours in research and study of the Bible and Bible aids; and 6 hours reading study material in the Watchtower magazine before the entire congregation, for a total of 226 hours devoted to ministerial work (F. 84).

A hearing was held before the local board on October 24, 1956, to determine the type of civilian work the respondent might perform, or to reopen his case. Respondent stated that he could not accept any of the three hospital jobs suggested, and that the "only type of work he would be willing to perform would be that of full time minister as Jehovah's Witness" (F. 52; R. 18–19). Respondent submitted statements from his mother, father, and numerous persons in regard to his ministerial activities and good character (F. 53–80). The board considered all the evidence but refused to reopen the case, and the respond-

ent was notified of this decision on October 25, 1956 (F. 11, 51; R. 19–20).

After some procedural steps and two cancellations of orders directing respondent to report for civilian work (F. 11; R. 20–22), the local board issued an order, on May 24, 1957, directing the respondent to report to it on June 10, 1957, for instructions as to employment at the Alabama State Hospital, Tuscaloosa, Alabama. Respondent failed to report on the appointed date (F. 13, 14, 11).

On September 9, 1957, the respondent was indicted for refusal to obey the local board's order to report for civilian work in lieu of military service, in violation of 50 U.S.C. App. 462(a), *supra*, pp. 2–3 (R. 2). Upon arraignment he pleaded not guilty, and the case was tried with a jury waived (R. 5–6).

2. At the trial, Mary Howell, the local board clerk, testified that at the hearing on October 24, 1956, *supra*, the board considered the signed statements (she called them "affidavits") by various witnesses as to the respondent's ministerial activities (R. 19–20). She stated that one of the considerations which entered into denial of a IV–D (minister) classification was the fact that the respondent supported himself by secular rather than ministerial work. The board did not question the truth of the signed statements, but nevertheless did not feel that the respondent was a minister (R. 29, 30).

Respondent and his mother testified that at the hearing on October 24, 1956, a local board member stated that "to be a minister one had to be a paid one

and also held to have his own church" (R. 39, 52). Respondent presented the board with a photostatic copy from the Watchtower showing his appointment as a Book Study Conductor (F. 86; R. 39). He explained the functions of such a Conductor as one who "has an assigned area where he carries on a study of the bible from one of our publications" (R. 43). Respondent testified regarding his weekly schedule:—that he attended area Bible study one hour on Wednesday; that on Thursday he conducted personal study; that on Friday evening he attended ministry school; that on Saturday morning he spent 3½ hours in door-to-door calls; and that on Sunday he spent a similar time in "call back" work (R. 46–47). He testified further that he had attended three ministerial assemblies during the past year; that he had delivered sermons from the pulpit before a congregation at a fixed place; and that he did not receive any salary for his ministerial work (R. 49–50).

3. In holding the respondent guilty as charged in the indictment, the District Court in its findings of fact reached the conclusion that "the local board was not arbitrary in any of its decisions * * * and * * * conformed to all legal requirements * * *"; and that the respondent "is regularly employed, according to his own testimony and that of other witnesses, and only does religious work on a part-time spasmodic basis" (R. 75). In reversing the conviction, the Court of Appeals considered respondent's position as Book Study Conductor as "roughly analogous to that of an assistant minister or assistant pastor. It involves regular duties chiefly in regard to instructing

in the Bible, conducting Bible study classes, preaching on street corners and on house-to-house calls and training others in the work" (Appendix A, *infra*, p. 28). The court pointed out that respondent conducted Bible study meetings and performed certain duties in magazine work; that he regularly attended "assemblies, congregations of ministers", held three or four times a year and "has preached regularly from a pulpit before a congregation at a fixed place" (Appendix A, *infra* p. 28). It ruled that, although the fact respondent had full-time secular employment was one factor to be considered in determining his exemption, that alone was not sufficient to deprive respondent of his status as a minister (Appendix A, *infra*, pp. 29–30). The court held there was nothing before the Selective Service System to rebut the prima facie case for ministerial exemption which respondent had made out on the showing of his activities. Accordingly, it held "that there was no basis in fact for the board to deny him an exemption as a minister" (Appendix A, *infra*, p. 30).

REASONS FOR GRANTING THE WRIT

The court below has held that a prima facie case for ministerial exemption from the draft, under the Universal Military Training and Service Act, was established by a showing that a member of Jehovah's Witnesses holding the minor post of Book Study Conductor (see *infra*, pp. 12–14, 34, 41) spent at most 9 to 10 hours a week on religious work, only about 3 of those hours being devoted to door-to-door calls and teaching, the rest being spent in studying or reading

religious works. See Appendix A, *infra*, pp. 28, 29, 30). If that is enough to make a prima facie showing of ministry under the Act, not only would an additional large group of Jehovah's Witnesses be entitled to exemption as a minister (see *infra*, p. 13), contrary to the holding of this Court in *Cox* v. *United States*, 332 U.S. 442, and the administrative practice, but numerous members of other religious groups who devote part of their time to religious activities would also be exempt as ministers. Respondent's own showing, far from establishing him in a position roughly equivalent to that of an assistant pastor in orthodox sects, makes him more nearly akin to Sunday school teachers (see *infra*, pp. 12–14), many of whom, like respondent, are sincere in their faith and voluntarily devote part time to the teaching of others. But, as this Court recognized in *Dickinson* v. *United States*, 346 U.S. 389, the ministerial exemption of Section 6(g) of the Act is a narrow one, intended for the leaders of the various religious faiths, and not for the membership generally. Respondent is not in the position of religious leadership which the statute requires for exemption from military service.

The decision below has implications far beyond the particular facts of this case. As we show below, it has already resulted in a change of position on the part of the Watchtower Society (the organization of the Jehovah's Witnesses) which has heretofore seemed to accept as fair the administrative interpretation of the ministerial exemption with respect to its membership. The opinion below is inconsistent or in conflict, not only with the decisions of this Court already cited,

but with decisions of other circuits. If not reversed, it cannot fail to open up a host of litigation as to what constitutes a prima facie showing of ministry, not only for Jehovah's Witnesses, but also for other groups as well.

1. We have appended to this petition a recent letter from Hayden C. Covington, Esquire, the general counsel of the Watchtower Society, to the Director of Selective Service, setting forth the functions of various positions in the Jehovah's Witnesses sect, and the present view of the Society with respect to the ministerial exemption of persons holding those positions (Appendix C, *infra*, pp. 37–42). We have also set forth a letter from the Director of Selective Service as to the administrative policy which has been followed with respect to this sect, and the policy of the Society, up to the time of this case, as it has been understood by the Selective Service System on the basis of consultations with representatives of the Society (Appendix B, *infra*, pp. 32–36). As appears from these letters, there is complete agreement between the Society and the Selective Service System that three groups of Witnesses are within the ministerial exemption:—members of the Bethel Family,[3] full-time Pioneers (*infra*, pp. 33, 35, 38), and Congregation Servants (*infra*, pp. 33, 34–35, 38–39). There is also agreement that the Congregation Servants perform the function of the leader of a congregation (the

[3] The "Bethel Family" is another name for the "Full-time Headquarters Servants" referred to in Mr. Covington's letter. See Appendix B, *infra*, pp. 33, 35, and Appendix C, *infra*, p. 37. See also *Cox* v. *United States*, 332 U.S. 442, 450.

equivalent of a pastor or minister in other groups). And as noted in General Hershey's letter (*infra*, pp. 34–36), until this case the Society seems to have accepted the administrative interpretation—that the exemption does not go to others in the Society's hierarchy—as fulfilling the exemption granted by Congress, as interpreted by this Court in *Dickinson* v. *United States*, 346 U.S. 389.

Although the Society now claims that each Book Study Conductor "who devotes a substantial amount of his time to preparation for and performance of his duties of leadership of the group as Book Study Conductor, as well as the door-to-door ministry work of Jehovah's Witnesses, should be entitled to claim the exemption provided for in the Act"[2] (*infra*, p. 41), the letter from the Society's counsel itself refutes the statement in the opinion below (Appendix A, *infra*, p. 28)[3] that respondent, as Book Study Conductor, occupied a position roughly equivalent to that of an assistant pastor. Within a Jehovah's Witnesses congregation, there is a group of persons known as "Servants" of various kinds, who perform functions of greater significance to the congregation as a whole in supervising its activities than do the Book Study Conductors. It is with the Servants, and in

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[2] This claim is said to depend "upon the circumstances of each particular case, as to whether his life is devoted to the ministry as a leader and he pursues it as his vocation as properly defined in the Act". *Infra*, p. 41.

[3] The court below does not appear to have based its characterization of a Book Study Conductor as an "assistant pastor" on any statement to that effect in the record of this case but on its own understanding of the situation.

particular with the Congregation Committee composed of three such Servants, that the Congregation Servant consults in management of the affairs of the congregation (see the letter from General Hershey, *infra*, pp. 33–34). According to the letter of the Society's counsel, the Book Study Conductors hold meetings in private homes and supervise "small groups of people, ranging from approximately 8–20 people, in the performance of the door-to-door ministry in the subdivision of the missionary field assigned to the group" (*infra*, p. 41). There are 13,830 Book Study Conductors out of the total membership of 226,000, as against 3,913 Congregation Servants. As we have already suggested, we think the analogy to other sects, if it is to be drawn, is much closer to that of Sunday school teacher than it is to assistant pastor.

The letter from the Society's counsel confirms, what would in any event logically follow from the Society's present position, that the claim of ministerial status now made for Book Study Conductors must necessarily be asserted also for the various types of Servants in each congregation. And the decision below as to Book Study Conductors would support such a claim. There are 14,104 such Servants (aside from the Congregation Servants and Pioneers), in addition to the 13,830 Book Study Conductors. Thus, under the theory of the decision below, there would be more than 27,000 "assistant pastors" (in addition to the ministerial assistance rendered by Pioneers) for 3,913 Congregation Servants, who concededly occupy a position equivalent to that of pastor.

It is evident, we submit, that a Book Study Conductor does not have the position of leadership which is required for a ministerial exemption under the Act. The explicit intention of Congress expressed in Section 16(g)(3) of the Universal Military Training and Service Act, 62 Stat. 624 (*supra*, pp. 3–4) is that a "regular or duly ordained minister of religion" should not include one who "irregularly or incidentally preaches and teaches the principles" of a particular religious sect. Congress was well aware of the claims by Jehovah's Witnesses that all of their members are ministers of religion. The ministerial exemption provided in the 1948 Act was stated to be "a narrow one, intended for the leaders of the various religious faiths and not for the members generally." S. Rep. No. 1268, 80th Cong., 2d Sess., 13. There is no doubt of respondent's sincerity and good faith, but sincerity and good faith do not give him the position of leadership which the statute demands. No matter how sincere the respondent may have been in subjectively believing that the ministry was his principal work and his vocation, the totality of the undisputed objective facts—including his full-time secular employment, his post in the congregation, and the relatively few hours a week he spent on religious work—plainly negate his claim for ministerial exemption under the terms of the Act.*

* Presumably, the court below relied, at least partially, upon respondent's sincerity in deciding that he was entitled to the ministerial exemption (Appendix A, *infra*, pp. 25, 29–30). In a ministerial, as distinguished from a conscientious objector, case, however, the sincerity of the registrant is not at issue, but

2. As we have indicated, the decision below is inconsistent with the ruling of this Court in *Dickinson* v. *United States*, 346 U.S. 389, and in conflict with that in *Cox* v. *United States*, 332 U.S. 442. In *Dickinson*, the Court held that the registrant made a prima facie showing of ministry by adducing evidence of his work as a full time "Pioneer" and Congregation Servant, devoting 150 hours each month to religious activities, despite the fact that he also earned a modest $35 a month from a weekly average of 5 hours of radio-repair work. The Court recognized, however, the limitations of the exemption to those in a position of leadership, 346 U.S. at 394–395. Dickinson's position of leadership, and his 150 hours a month in religious work as against 20 hours in secular employment, are in marked contrast to respondent's relatively unimportant position in the Society, his 38 hours a month of religious activity (including much personal study), and his more than 160 hours a month in secular activity.

Of the group of Witnesses covered by the Court's decision in *Cox* v. *United States*, 332 U.S. 442, the registrant Cox claimed that he spent 150 hours per month on ministerial duties; registrant Thompson spent 519½ hours during the preceding year on field service religious activities, was a Book Study Conductor, and at all times operated a grocery store; and registrant Roisum was a Book Study Conductor, and

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rather the test is whether the objective facts before the board provide a basis for finding that the registrant is not a minister. *Witmer* v. *United States*, 348 U.S. 375, 381–382.

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averaged about 40 hours per week in religious activities. This Court found in all these cases that the local board was not without basis in fact in refusing the ministerial classifications sought by these registrants. The contrast to the decision below is apparent.

3. The decision below is also in conflict with the following Courts of Appeals decisions: *Bradshaw* v. *United States*, 242 F. 2d 180 (C.A. 10) (40 hours per week for secular work; 40 hours per week for ministerial activities); *Capehart* v. *United States*, 237 F. 2d 388 (C.A. 4), certiorari denied, 352 U.S. 971 (40 hours per week for secular work; a claim of 100 hours per month for religious work); *United States* v. *Diercks*, 223 F. 2d 12 (C.A. 7), certiorari denied, 350 U.S. 841 (full-time week of 40 hours for secular work; obligated as "Pioneer" to preach 100 hours per month without a showing of actual performance of such work); *United States* v. *Hill*, 221 F. 2d 437 (C.A. 7), certiorari denied, 349 U.S. 964 (40 hours per week for secular work; ministerial work at various churches only intermittently).[9]

[9] None of the Courts of Appeals cases *upholding* a ministerial exemption goes as far as the instant case, or comes as close to saying that a large segment of Jehovah's Witnesses must be exempted as ministers. In the reported cases, the registrant usually performed no secular work or had only part-time secular employment. *E.g.*, *United States* v. *Hurt*, 244 F. 2d 46 (C.A. 3); *Pate* v. *United States*, 243 F. 2d 99 (C.A. 5); *Rowell* v. *United States*, 223 F. 2d 863 (C.A. 5); *United States* v. *Ransom*, 223 F. 2d 15 (C.A. 7); *Brown* v. *United States*, 216 F. 2d 258 (C.A. 9); *Hacker* v. *United States*, 215 F. 2d 575 (C.A. 9); *Jewell* v. *United States*, 208 F. 2d 770 (C.A. 6).

In the light of the decisions of this Court and those in other circuits, it would be inequitable to allow the decision below to remain in effect. The result would inevitably be that a Jehovah's Witness in the Fifth Circuit would be held to have made out a prima facie case for exemption on the basis of a showing which would be regarded as wholly inadequate in other parts of the country. In view of the administrative difficulties and the inequality which the decision below is bound to engender, the conflict among the circuits (as well as the inconsistency with this Court's holdings) manifested by the decision below should be resolved by this Court.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

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JANUARY 1959.

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17094

ELMER B. WIGGINS, Appellant,
versus
UNITED STATES OF AMERICA, Appellee

Appeal from the United States District Court for the Southern District of Alabama.

(November 26, 1958)

Before RIVES, BROWN, and WISDOM, *Circuit Judges.*

WISDOM, *Circuit Judge:* This is another case in which a Jehovah's Witness claims an exemption from selective service on the ground that he is a minister. The Court's review is directed to determining whether there was any basis in fact for the local draft board's denial of the ministerial exemption to the registrant.

Elmer Wiggins, defendant, of Bay Minette, Alabama, claimed an exemption as a minister and also claimed status as a conscientious objector. His local board classified him as a conscientious objector, denying him the ministerial exemption. On refusing to perform the civilian duty prescribed for him as a

conscientious objector, Wiggins was indicted for violating the Universal Military Training and Service Act, 50 USCA App. Section 462. He was tried without a jury, convicted and sentenced to serve two years in the custody of the Attorney General of the United States. He appeals to this Court. We reverse the judgment of the district court.

I.

In the Universal Military Training and Selective Service Act Congress limited the scope of judicial review more severely than Congress usually limits review of administrative action. The Act provides that decisions of the local board are "final". 50 USCA App., Sec. 460(b)(3). Judicial interpretation of "final" however is that it means something quite short of finality in the congressional grant of jurisdiction to local draft boards. Dickinson, following Estep, has established beyond any argument at this point that "courts may properly insist [that when a local board denies a claimed exemption] there must be some proof that is incompatible with the registrant's proof of exemption"; "a local board loses jurisdiction if there are insufficient facts in the record to support its conclusion." In applying this

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[1] In *Estep v. United States*, 1945 327 U.S. 114, 66 S. Ct. * * * 90 L. Ed. 567, the Supreme Court ruled that although the statutory provision that orders of draft boards shall be "final" precludes the customary scope of judicial review, and forbids courts to weigh the evidence, a board may not act with jurisdiction; it lacks jurisdiction if there is *no* basis in fact for the classification which it gave the registrant. A registrant may secure judicial review by habeas corpus or by defense to a criminal prosecution for failure to submit to induction.

Dickinson v. United States, 1953, 346 U.S. 389, S. Ct. * * *

principle, an expanding group of cases[2] seems to bear out the minority opinion's construction of the majority opinion in Dickinson as to the consequences of the Estep-Dickinson doctrine: "[I]t is not sufficient that the board disbelieve the registrant. The board must find and record affirmative evidence that he has misrepresented his case—evidence which is then put to the test of substantiality[3] by the courts. In short, the board must build a record."

Wiggins' local board built no record. The board called no witnesses and made no effort whatever to put any evidence in the record (the selective service file) to rebut Wiggins' claim to exemption. We have to hold therefore that there was no basis in fact for the board's decision unless it can be found in Wiggins' own testimony and in the letters and statements

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98 L. Ed. 132, went a step further than Estep in holding that once the registrant makes a prima facie case, the board must develop other evidence to support an adverse decision.

In *Witmer* v. *United States*, 1955, 348 U.S. 375, * * * S. Ct. * * * L. Ed. * * * the Court distinguished between a claim of conscientious objection where the ultimate question is the sincerity of the registrant, a purely subjective question, and a claim for a ministerial exemption where "the issue is the nature of his activities".

[2] See *Annett* v. *United States*, Cir., * * *, 205 F. 2d 689; *Jewell* v. *United States*, 6 Cir., * * *, 208 F. 2d 770; *Bejelis* v. *United States*, 6 Cir., 1953, 206 F. 354; *Weaver* v. *United States*, Cir., * * *, 210 F. 2d 815; *Olvera* v. *United States*, 5 Cir., 1055, 223 F. 2d 880; *Rowell* v. *United States*, 5 Cir., 1955, 223 F. 2d 863; *United States* v. *Ransom*, 7 Cir., 1955, 223 F. 2d 15; *Pate* v. *United States*, 5 Cir., 1957, 243 F. 2d 99.

[3] See *United States* v. *DeMoss*, * * * Cir., * * *, 218 F. 2d 119, 121 commenting on the Court's reference to lack of substantial evidence in the opinions rendered in *Annett* v. *United States*, * * * Cir., * * *, 205 F. 2d 689, 692, and *Jewell* v. *United States*, Cir., * * *, 208 F. 2d 770.

he submitted to the board. This requires us to decide whether Wiggins made out a prima facie case.

II.

What constitutes a prima facie case for a registrant's ministerial exemption is especially unclear when the registrant is a Jehovah's Witness. Congregation Servants, Pioneer Ministers, Bible Study Conductors, and other members of Jehovah's Witnesses who correspond to ministers in a conventional organized religion usually do not receive a salary. They must engage in some secular work in order to earn sufficient funds to carry on their religious work. To a draft board, therefore, a Witness steadily employed and earning fifty dollars a week may seem no different from any other draftee gainfully employed—although the Witness may sincerely regard the ministry as his vocation and other Witnesses may accept him as a minister. This situation is not adequately covered in the Act and Regulations. A draft board and a reviewing court are placed in the position of balancing the secular against the religious interests and activities of the registrant with uncertain guides at best and subject to conflicting philosophies of individual board members and judges in their approach to selective service. Is a ministerial exemption a grant of legislative grace to be construed narrowly in the light of the Act's purpose that the obligation of serving in the armed forces should be shared universally and equally among all American citizens? Or is a ministerial exemption a statute of religious liberty, a draft board's actions to be scrutinized closely because of somewhat considerable authoritarian powers

vested in a non-legal board? A further word from Congress would be helpful.'

Congress exempts from training and service "regular or duly ordained ministers of religion[5]". 50 USCA App. 456(g). A minister is one who as his regular and customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member. The term

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[4] Senate Report No. 1268, 80th Cong., 2d Sess. 13 shows congressional awareness of the problem. The report states that the ministerial exemption "is a narrow one, intended for the leaders of the various religious faiths and not for the members generally".

[5] 50 USCA App. Sec. 466(g) provides: "(1) The term 'duly ordained minister of religion' means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization. (2) The term 'regular minister of religion' means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister. (3) The term 'regular or duly ordained minister of religion' does not include a person who irregularly or incidentally preaches and teaches the principles or religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly, as a vocation, teach and preach the principles of religion and administer the ordinance of public worship as embodied in the creed or principles of his church, sect, or organization."

"minister" does not include a person "who irregularly or incidentally preaches or teaches. * * * or who does not regularly, as a vocation, teach and preach". 50 USCA App. 466(g).

Almost without exception courts have interpreted the ministerial exemption broadly *in a Jehovah's Witness case.* In Dickinson the Supreme Court said:

> "That the ordination, doctrines, or manner of preaching that his sect employs diverge from the orthodox and traditional is no concern of ours; of course the statute does not purport to impose a test of orthodoxy. * * * The statutory definition of a 'regular or duly ordained minister' does not preclude all secular employment. Many preachers, including those in the more traditional and orthodox sects, may not be blessed with congregations or parishes capable of paying them a living wage. A statutory ban on all secular work would mete out draft exemptions with an uneven hand, to the detriment of those who minister to the poor and thus need some secular work in order to survive * * *." *Dickinson* v. *United States,* 1953, 346 U.S. 392, 395.

This Court has been consistent in construing the Act broadly, having in mind: "(1) the statute under construction is a statute of religious liberty; (2) the blood of the martyrs is the seed of the church; and (3) liberty and law must go hand in hand, neither must outrun the other". *Olvera v. United States,* 1955, 223 F. 2d 880, 883. *In Pate v. United States,* 5 Cir., 1957, 243 F. 2d 99, we said that once a registrant makes a showing that ministry is his vocation, "he is entitled, not as a matter of *grace* but as a matter of *right* to the statutory exemption".

In Pate we emphasized that local draft boards must not "fit the garments of orthodoxy on a pioneer minister of Jehovah's Witnesses". We held:

> "Therefore, here, in addition to the non-existence in the record of evidence to rebut the defendant's prima facie case, there are the further undisputed facts that the draft boards employed standards applicable to ministers of orthodox churches instead of those standards fixed in the law and applicable here, and thus erroneously held: that part time secular work, from which defendant earned all his livelihood, defeated the ministerial claim; and that, because he did not earn any part of his livelihood from his ministry he could not be regarded as a minister. * * * Nowhere in [the Act and the Regulations] is there a requirement that a minister earn his livelihood from the ministry or from a particular congregation, or that he have a pulpit before he can claim and receive classification as a minister. All that the act and regulations require in order for one to qualify as a minister and to receive the classification is that the ministry be his vocation, not an incidental thing in his life.

Similarly, in *United States v. Ransom,* 7 Cir., 1955, 223 F. 2d 15, 18 the court pointed out:

> "We cannot validly distinguish for draft purposes between ministers of Jehovah's Witnesses who preach from door to door and on street corners at their vocations, and ministers of more conventional faiths who preach in pulpits, teach in church schools or carry on various other religious activities for their churches."

See also *Rowell v. United States,* 5 Cir., 1955, 223 U.S. 863 and *Williams v. United States,* 5 Cir., 1934, 216 F. 2d 350.

III.

We turn now to the facts on which the Board based its denial of Wiggins' claim for a ministerial exemption.

Wiggins registered April 6, 1953. He was eighteen years old. In his classification questionnaire and repeatedly thereafter he stated that he had been an ordained minister in Jehovah's Witnesses since he was twelve. He has always asserted conscientious objection to war, subject to his claim for a ministerial exemption. From the very first, he has presented numerous affidavits, certificates, and letters, from his parents, from other members of Jehovah's Witnesses, and from non-members. The board classified him as 1–A.

August 26, 1953 Wiggins appeared before the local board to ask that his classification be reconsidered. The local board refused. Wiggins appealed to the regional Appeal Board. The Appeal Board sent Wiggins' file to the Department of Justice to obtain its advice on his claim as a conscientious objector. The Department of Justice recommended a 1–O classification, as a conscientious objector. There is nothing to indicate that the Department of Justice considered the ministerial exemption. In its letter of recommendation to the board, the Department pointed out that: "[The Hearing Officer] stated further that no one has appeared before him who impressed him more with his uprightness, his fine character and with his genuine sincerity and truthfulness than did the registrant". We have examined the file closely. There is little doubt as to Wiggins' character and sincerity. But the local board has never questioned his character and sincerity. Still, the board classified Wiggins as a conscientious objector only.

Wiggins was ordered to report for his physical examination September 5, 1956. At that time he stated his occupation as "crane operator". He was making $52.53 a week.

October 2, 1956 Wiggins requested that he be classified as a minister. He filed twenty-one affidavits and letters supporting his position. October 24, 1956, the board met with Wiggins, who was accompanied by his mother. The uncontradicted testimony in the district court as to this meeting throws considerable light on the board's thinking. Apparently, the board's criterion was whether Wiggins was paid for his ministerial work. Wiggins testified:

> "Q: Now, did any member or members of the Board make any statement regarding your ministerial claim on that occasion?
>
> "A: Yes, they did. If I recall, when we were discussing civilian work, I believe it was, at that hearing, the Local Board told me that to be a minister, one had to be paid, one also had to have his own church, then I asked them after I had presented some evidence, if they would consider reopening the case, and I asked them also as to what it would take to be a minister in their sight, and they said they did not know."

Mrs. Wiggins testifled:

> "Q: Now, will you tell the Court what you heard at that meeting?
>
> "A: Well, after they had talked considerably, Elmer presented the new affidavits concerning his ministerial work from people who were not Jehovah's Witnesses, who accepted his sincerity and saw his action in doing ministerial work. Then, they still indicated they were not going to consider his ministerial claim. Elmer asked, 'If I am not a minister, will you please tell me what a minister is, Mr. Faulk?'

Mr. Faulk, a member of the Board, said 'I don't know, you will have to go to someone who knows more than I do.'

Q: Did you hear further statement of any member of the Board?

"A: There was quite a bit of discussion; and there is one thing about what they termed a minister was, before Mr. Faulk answered this question of Elmer's and he said to him a minister can only be one that was paid, that had a diploma and had his church, and that the main thing was that they were paid for the ministerial work."

Ministers of Jehovah's Witnesses are not paid a salary, furnished a parsonage, or even given funds for necessary expenses to carry on their ministerial work. As pointed out, they have no choice except to engage in secular pursuits in order to obtain funds to make the ministry their vocation. The Act does not define a minister in terms of one who is paid for ministerial work, has a diploma and a license, preaches and teaches primarily in a church. The test under the Act is not whether a minister is paid for his ministry but whether, as a vocation, regularly not occasionally, he teaches and preaches the principles of his religion.[6]

Jehovah's Witnesses have no ministers, in an orthodox sense. But Witnesses have their religious leaders who stand in a relation to other Witnesses as a minister stands in relation to the congregation of an orthodox religion. In this case Wiggins stood in the relation of a religious leader to other members of Jehovah's

[6] Each registrant must satisfy the Act's rigid criteria for the exemption. Preaching and teaching the principles of one's sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to bring a registrant under § 6 (g). These activities must be regularly performed. They must, as the statute reads, comprise the registrant's 'vocation.'" Dickinson v. United States, 9 Cir., 1953, 346 U.S. 389, 395.

Witnesses. He was recognized as such by individual members and by the governing Body of Jehovah's Witnesses. The defendant's selective service file shows numerous uncontradicted certificates and letters of individual members that support Wiggins' account of his religious activities.

March 21, 1956 the Watchtower Bible and Tract Society, Inc., the governing body of Jehovah's Witnesses, notified the Congregation of Jehovah's Witnesses at Robertsdale, Alabama, that Elmer B. Wiggins would serve as the Book Study Conductor. This position is roughly analogous to that of an assistant minister, or assistant pastor. It involves regular duties chiefly in regard to instructing in the Bible, conducting Bible study classes, preaching on street corners and on house to house calls, and training others in the work

A congregation covers a large area. It is usually subdivided. Wiggins was in charge of the Foley, Alabama area. In addition to his other duties, regularly he transported Witnesses within his area to religious meetings, assemblies of ministers, and bible study groups. He travelled 200 to 400 miles a week in this work, receiving no remuneration for his expenses.

Wiggins duties required him to conduct Bible study meetings ever Wednesday night and every Saturday. In addition, he performed certain duties in "magazine work" for the Watchtower, the official publication of Jehovah's Witnesses. The members regard the "magazine work" as a very important part of their religious activities. Wiggins regularly attends assemblies, congregations of ministers, held three or four times a year. He has official duties at these assemblies and on several occasions has quit his job in order to attend the assemblies. He has preached regularly from a pulpit before a congregation at a fixed place.

Oscar Skooglund, Congregation Servant of the Robertsdale congregation, Jehovah's Witnesses stated that in the six months previous to October 1, 1956 Wiggins spent approximately 42 hours in door to door ministry, 34 hours conducting weekly meetings, 144 hours in biblical research and study, and 6 hours reading summary material. This amounts to approximately 38 hours a month, about one fourth of the time Wiggins spent in secular employment. Pate was a farmer, but as a "pioneer" minister he was required to spend at least 100 hours in religious activities. *Pate v. United States*, 5 Cir., 1957, 243 F. 2d 99. Ransom spent "at least 100 hours per month preaching", had other duties, and helped preside at meetings. His only secular activity was farming one day a week on his parents' farm. *United States v. Ransom*, 7 Cir., 1955, 223 F. 2d 15. In *United States* v. *Kahl*, D.C. Mich. * * *, * * *, 141 F. Supp. 161, Kahl spent 90 to 135 hours a month on secular work and 100 hours a month on ministerial work. Dickinson spent 25 hours a month on secular work as against 150 hours on religious activities, 1953, 346 U.S. 389, 74 S. Ct. 152, 98 L. Ed. 132.

The time spent in secular employment as against the time spent regularly in religious activities is an important factor in deciding whether a man is entitled to an exemption as a minister. It is not the sole or necessarily conducive factor. Some allowance must be made for ministers who are gainfully employed simply because they are not paid for their religious ministry. If they must work, they should not be penalized for working steadily. A young man such as Wiggins could hardly work less than forty hours a week as crane operator and hold on to his job.

In this case Wiggins has shown that he dedicated himself at an early age to serving Jehovah's Wit-

nesses; that he regarded this endeavor as his chief purpose in life, the secular employment being incidental. He has shown that he stood in the relation of a religious leader to other members of his faith, in a capacity comparable to an assistant pastor. He has shown that he performed his religious duties regularly, without allowing his secular work to interfere with his religious work. We hold that a crane operator working a forty-hour week may be a minister in Jehovah's Witnesses and entitled to the ministerial exemption under the Selective Service Act, although spending only forty hours a month on religious duties.

We are inclined to the view that the close case before us is just such a case as might have prompted Congress to vest draft boards with "*final*" authority in deciding classifications and exemptions. The patient members of Local Draft Board No. 2 of Bay Minette, Alabama, who struggled with this case for four years, are in a better position than we to determine the facts and weigh credibility; they should be able to weigh credibility. However, because of the broad view of this ministerial exemption adopted by the Supreme Court and applied in various decisions in this circuit, we feel constrained to hold that Wiggins made out a prima facie case and that there was no basis in fact for the board to deny him an exemption as a minister.

Judgment is *Reversed*.

JUDGMENT

Extract from the Minutes of November 26, 1958.

No. 17094

ELMER B. WIGGINS,

versus

UNITED STATES OF AMERICA

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Alabama, and was argued by counsel;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, reversed.

APPENDIX B

NATIONAL HEADQUARTERS,
SELECTIVE SERVICE SYSTEM
454 INDIANA AVENUE NORTHWEST
WASHINGTON 25, D.C.

January 9, 1959.

The Honorable J. LEE RANKIN,
Solicitor General,
Department of Justice,
Washington 25, D.C.

DEAR MR. SOLICITOR GENERAL: In connection with your work on the case of *Wiggins* v. *United States,* it has been suggested that I advise you as to my administrative policy regarding the exemption of Jehovah's Witnesses from military service as ministers of religion.

Realizing that the Jehovah's Witnesses organization was not well understood by the public generally, I have had frequent conferences with representatives of their governing body, the Watchtower Bible and Tract Society (hereafter referred to as the Society). Within the Society, all members are recognized as ministers, and since the Congress and the Courts have indicated that all members of a religion are not entitled to ministerial exemption, these meetings were to aid in reaching a conclusion as to which members should qualify under the law. The following information has been transmitted by the Society to the Selective Service System.

The Bethel Family, consisting of more than 500 members, is located in and near the International Headquarters of the Society in Brooklyn, New York. These persons live in dormitories and work 8¾ hours a day in preparing, printing and distributing publications of the Society, and in raising food for themselves. They receive a very modest monthly allowance in addition to subsistence and lodging, and preach and teach the doctrines of Jehovah's Witnesses during evenings and on Sundays and holidays.

Pioneer ministers, of which there were 6,469 in the United States as of June 25, 1958, work in congregations but are supervised from the International Headquarters of the Society. To maintain good standing as a Pioneer, the member cannot have full-time secular employment, and must devote at least 100 hours per month in preaching and teaching the doctrines of the Society, in addition to Bible reading and study.

There were 3,778 congregations of Jehovah's Witnesses in the United States as of June 25, 1958, with an average membership of 51. Congregations vary in size, with a minimum of 10 persons.

There is a Congregation Servant for each of the 3,778 congregations, who takes the full oversight of his congregation.

Within each congregation, there is also an Assistant Congregation Servant; a Bible Study Servant, who supervises the Bible study activity of the congregation, particularly Bible study in homes visited by the members; a Territory Servant, who is responsible for assigning territory to members for their witnessing; an Advertising Servant, who looks after the advertising work of the congregation, including the use of placards, handbills, and window displays; an Accounts Servant, who has charge of all money

belonging to the congregation; a Stock Servant, who supervises all stock, including books and all other supplies of the congregation except magazines; a School Servant, who presides over the ministry school in which all members are urged to enroll; a Watchtower Study Servant, who leads the congregation in the study of the "Watchtower" magazine; a Literature Servant, who looks after the Bibles, books, and supplies in the congregation literature room; a Magazine-Territory Servant, who looks after the distribution of Society magazines; and Book Study Conductors, who preside over study groups which engage in Bible study with the aid of one of the Society's bound books. All of these, except the Congregation Servant, are also referred to as Assistant Presiding Ministers, because in performing their duties they are of assistance to the Congregation Servant.

While the Congregation Servant takes the full oversight of the congregation, he consults with the Congregation Committee, which consists of the Congregation Servant, Assistant Congregation Servant, and Bible Study Servant, when things arise where he needs the counsel of others.

During the course of our discussions with representatives of the Society, the General Counsel for Jehovah's Witnesses provided us with a written statement on June 25, 1958, stating that the Society does not claim exemption for *all* Congregation Servants under the present selective service law, but only those who devote enough hours to the field ministry in addition to their duties as Congregation Servants to show that the ministry work is their vocation rather than their avocation. He also assured us that the Society would not press for ministerial exemption for anyone under the rank of Pioneer ex-

cept Congregation Servants who show that the ministry is their vocation.

After full consideration of the above facts, it has been my policy to take administrative action to prevent the induction of any registrant who has submitted evidence to his local board showing that he is a member of the Bethel family, a Congregation Servant, or a Pioneer minister in good standing as such. Until I was advised of the claim made in the Wiggins case, I had been led to believe that this administrative policy was completely acceptable to the Society, and even went beyond the claims of the Society in connection with Congregation Servants.

Sincerely,

(Sgd.) LEWIS B. HERSHEY,
Director.

Enclosure.

[Enclosure]

EXCERPT FROM MEMORANDUM DATED JUNE 25, 1958, FROM MR. HAYDEN C. COVINGTON, GENERAL COUNSEL FOR JEHOVAH'S WITNESSES, TO NATIONAL SELECTIVE SERVICE APPEAL BOARD ANSWERING QUESTIONS RE JEHOVAH'S WITNESSES

"14. Does the Watchtower Bible & Tract Society claim ministerial exemption for all Congregation Servants?

The Society does not claim exemption for congregation servants under the present law, except for those who are also pioneers or congregation servants (not pioneers) who can show that they are devoting their time to the ministry work of Jehovah's Witnesses sufficiently to claim that it is their vocation rather than their avocation. While the time of the congregation servant devoted to his duties is substantial it does not alone constitute his vocation. (See *Preaching Together In Unity*, page 29). To qualify for exemp-

tion under the present law the congregation servant must show that he is devoting enough hours to the field ministry work of Jehovah's Witnesses, in addition to his duties as a congregation servant, to constitute it as his vocation. He can do this even though he may not be a pioneer providing he devotes a substantial portion of his time to the ministry and shepherding the flock of God."

"19. Will the Society agree that it will not press for ministerial status for anyone under the rank of pioneer?

Yes, except in the case of the congregation servant who is devoting a substantial amount of his time, not as a pioneer, which together with his duties as a congregation servant makes his ministry his vocation and not his avocation. The Society is interested in defending only those persons who qualify for the exemption under the law of the land. On such basis it does not contend that every minister in the organization is entitled to the exemption. Only those ministers who meet the definition of vocation required by the statute are entitled to be given the exemption and these the Society can legally defend."

APPENDIX C

LAW OFFICES—HAYDEN C. COVINGTON

124 COLUMBIA HEIGHTS

BROOKLYN, N. Y.

January 10, 1959.

Lt. General LEWIS B. HERSHEY, *Director,*
Selective Service System;
451 Indiana Avenue, Northwest,
Washington 25, D. C.

DEAR GENERAL HERSHEY: The following information is supplied to you pursuant to the promise made by me to Colonel Omer, your legal adviser, in the presence of representatives from the Department of Justice, when we met in Washington, D. C.

FULL-TIME HEADQUARTERS SERVANTS

This is a group of 550 men and women situated at the international headquarters of Jehovah's Witnesses in Brooklyn, New York, and at other institutions located at Washington, New Jersey and South Lansing, New York, who are engaged in supervising the work of Jehovah's Witnesses throughout the world by mail, printing of Bibles and Bible literature for use of ministers and missionaries throughout the world and the maintenance of the institutions. Of this number 224 are of draft age. All of these are entitled to exemption under the Act.

FULL-TIME TRAVELING SUPERVISORS

This group of ministers is composed of the District Servants and the Circuit Servants. District Servants are traveling representatives having visitorial powers over a district of the United States which includes one or more states or parts of states. There are 18 districts, each of which is made up of 11 or 12 circuits. Each circuit is supervised by a traveling minister with supervisory powers to inspect and direct the congregations making up his circuit, numbering from 18–25 congregations. The average number of congregations in a circuit is 20. There are 199 Circuit Servants and 18 District Servants, making a total of 217 full-time traveling supervising ministers, of which there are 12 of draft age. All of these are entitled to exemption under the Act.

PIONEERS

Pioneers are full-time ministers of the organization who devote a minimum annual average of 1,200 hours to the field ministry of Jehovah's Witnesses. They preach in isolated rural areas of the United States as well as within the urban areas of the country. These persons, on the basis of the time devoted exclusively to the ministry and the preparations therefor, are entitled to exemption under the Universal Military Training and Service Act, of 1951.

Number of persons who are pioneers	6,602
Number of men who are pioneers	2,320
Number of women who are pioneers	4,282
Number of men pioneers of draft age	675

CONGREGATION SERVANTS

Congregation Servants of the organization are ministers of the organization whose duties do not require their full time but who devote a substan-

tial part of their time to such duties. They have dedicated their lives to the ministry and perform their supervising duties four or five times weekly. They are placed in the top position of leadership over all of the congregations of Jehovah's Witnesses in the United States and direct and have full charge of the ministerial work of the entire congregation of missionaries and ministers. All of these congregations are composed primarily of non-exempt, part-time missionaries or ministers. They preach under the direction of the Congregation Servant.

There are 3,913 congregations of Jehovah's Witnesses in the United States presided over by 3,913 Congregation Servants. Of this number 3,609 are over the age of 26 years. Within the draft age limit there are 304.

There are 31 women who are appointed as Congregation Servants in congregations composed only of women where there are no men. The average size of a congregation is 56–68 and there are 266 congregations with 10 or slightly less than 10 ministers associated. There are 587 congregations with 11–20; 898 with 21–40; 923 with 41–80; 578 with 81–100; 566 with 101–150, and 95 congregations with more than 150 persons associated.

Watchtower Bible and Tract Society of New York, Inc., the legal governing body of Jehovah's Witnesses, claims that each Congregation Servant who is of draft age is entitled to be exempted under the Act as a leader of the organization; otherwise, if not thus protected, each congregation would be without a presiding minister and top-ranking leader, intended to be protected by the Congress of the United States.

OTHER SERVANTS

There are other servants who are part-time ministers in each congregation who act as assistants to the

presiding minister, known as the Congregation Servant. Like the Congregation Servant, these are leaders in the organization whose lives are dedicated to the ministry. These are known as Assistant Congregation Servant, Bible Study Servant, Theocratic Ministry School Servant, Watchtower Study Servant, Magazine-Territory Servant, Literature Servant and Accounts Servants. These men regularly perform their duties in a supervising capacity over the congregation.

It is necessary for the Congregation Servant to have the assistance and leadership of these servants in order to properly serve the congregation of missionary evangelists presided over by the Congregation Servant. Without their assistance in leading the group in their missionary work the Congregation Servant could not direct the missionary activity of the congregation because the administrative and supervising duties are too much for one man to handle.

Each of such servants who devotes a substantial amount of his time to the performance of his duties as such servant, as well as to the door-to-door missionary work of Jehovah's Witnesses, and who does not perform such duties irregularly, the Watchtower Bible and Tract Society of New York, Inc., takes the position that he should be entitled to the exemption provided for in the Act, depending upon the circumstances of each particular case, as to whether his life is devoted to the ministry as a leader, and he pursues it as his vocation, as properly defined in the Act. There are 18,226 such servants in the 3,913 congregations, of which 2,328 are of draft age. Some men fill the job of two or more assistant servants. See the table at the end of this letter.

BOOK STUDY CONDUCTORS

These men have important positions of leadership within the organization. They are appointed to supervising positions to preside over small meetings of a part of the congregation each week. This is called a Service Center. The meetings are of a group within a geographical subdivision of the total missionary field of the congregation. These regular meetings of the group are held in a private home in the assigned area, and not at the headquarters of the regular congregation meeting place or church, known as the Kingdom Hall, while the group as such is considered a church in the scriptural sense. These Book Study Conductors have direct supervision over these small groups of people, ranging from approximately 8–20 people, in the performance of the door-to-door ministry in the subdivision of the missionary field assigned to the group. Some men and women fill this job, as well as two or more other servant's positions in some of the congregations. See the table at the end of this letter.

Watchtower Bible and Tract Society of New York, Inc., the legal governing body of Jehovah's Witnesses in the United States, takes the position that each of such Book Study Conductors who devotes a substantial amount of his time to preparation for and performance of his duties of leadership of the group as Book Study Conductor, as well as the door-to-door ministry work of Jehovah's Witnesses, should be entitled to claim the exemption provided for in the Act, depending upon the circumstances of each particular case, as to whether his life is devoted to the ministry as a leader and he pursues it as his vocation as properly defined in the Act. There are 13,830 of such Book Study Conductors, of which 898 are of draft age.

The above figures are based upon a search of the records of the Watchtower Bible and Tract Society of

New York, Inc., made at my request, as well as from printed material supplied by the Watchtower Bible and Tract Society of New York, Inc., of which you have copies.

Table of Percentages

	(1) Number	(2) Number of men of draft age	(3) Percent (Col. 2 of Col. 1)	(4) Percent of total Jehovah's Witnesses (226,000)
Bethel family (men and women)	570	223	40.7	0.10
Circuit and district servants (men)	217	12	0.5	.0052
Pioneers (men)	2,329	675	29.1	.30
Congregation servants (including 31 women)	3,913	304	7.8	.13
Other servants	*14,104	*2,328	*16.5	*1.03
Book Study conductors (men and women)	*13,830	*898	*6.4	*.40
Total	*34,934	*4,441	*12.7	*1.96

The figures marked by asterisks represent the number of these offices filled in the organization and not the number of different positions occupied by different persons. Some of the men and women occupying these offices of leadership fill two or more offices. The totals shown in the figures marked by asterisks are actually greater than the number of persons filling them. At some later date you will be supplied with a more detailed breakdown, showing the number of men and women occupying this number of positions and the percentages. The reason they cannot be supplied now is that it requires a poll to be taken directly of each of the 3,913 congregations in the United States and this will require more time than I have been allowed to get this information to you.

It is hoped that this information will be sufficient to serve the purpose for which it was requested by you.

With kind and high personal regards.

Sincerely,

HAYDEN C. COVINGTON.

U. S. GOVERNMENT PRINTING OFFICE: 1959